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Commission on
Judicial Performance

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING JUDGE
JOHN B. GIBSON, NO. 152.

NOTICE OF FORMAL PROCEEDINGS

To John B. Gibson, a Judge of the San Bernardino County Municipal Court,
Victorville Division, from September 1990 to the present:

Preliminary investigation pursuant to Rules of the Commission on Judicial
Performance, rules 109 and 111, having been made, the Commission on Judicial
Performance has concluded that formal proceedings should be instituted to inquire
into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in
office, conduct prejudicial to the administration of justice that brings the judicial
office into disrepute, improper action and dereliction of duty within the meaning of
Article VI, section 18 of the California Constitution providing for removal,
censure, or public or private admonishment of a judge or former judge, to wit:

COUNT ONE

In August 1996, the felony case of *People v. Valenzuela, Payan*, case no. FVI-04899 (hereafter *Valenzuela*), was before you for a preliminary hearing. The People were unable to proceed because a witness was not present. You dismissed the case as to both defendants. The People filed a motion to have the case reinstated. The motion was granted by the Superior Court and the case was set in your department for arraignment on the morning of September 26, 1996.

On September 26, 1996, you took the bench at approximately 8:30 a.m. Neither the defendants, the defense attorneys nor the prosecutor on the *Valenzuela* case were present. You orally dismissed the case. Your clerk prepared a minute order for each defendant which stated, "There being no appearance by the People, the case is dismissed."

You dismissed *Valenzuela* on September 26, 1996, not for the faithful discharge of your judicial duties, but out of animosity toward the District Attorney's office. Your conduct violated the Code of Judicial Ethics, canons 1 and 2A.

On or about October 4, 1996, you had an ex parte conversation in your chambers about the *Valenzuela* case with Dennis Christy, a supervising deputy district attorney. Christy expressed his concern that the case had been dismissed vindictively. You denied having acted vindictively and discussed the procedural facts of the case. Your conduct violated the Code of Judicial Ethics, canon 3(B)(7).

On October 4, 1996, shortly after your conversation with Christy, at your instruction, your clerk prepared a minute order for each defendant that was labeled a "correction" to the September 26 minute order. The minute orders dated October 4, 1996, stated, "there being no appearance by the People – This case should be dismissed."

Also on October 4, 1996, after the meeting with Christy, you called a meeting with the attorneys on the *Valenzuela* case (Deputy District Attorney Bruce Brown, Deputy Public Defender Phyllis Morris, defense attorney Troy Padgett). You told the attorneys that “the matter was not dismissed,” and that you had said that the case “should have been dismissed.” You issued bench warrants for the defendants, to be held until October 18, 1996.

Defendant Valenzuela filed a motion to dismiss the *Valenzuela* case for lack of jurisdiction, based on the fact that the case had been dismissed by you on September 26, 1996. At a hearing on the motion held on February 21, 1997, with retired Superior Court Judge Robert Law presiding, you testified under oath regarding events in the *Valenzuela* case on and after September 26, 1997. Your testimony was untruthful. You testified that you had not dismissed the *Valenzuela* case on September 26, 1996. Judge Law found that you had dismissed the case on that date, and granted defendant’s motion. Your conduct violated the Code of Judicial Ethics, canons 1 and 2.

COUNT TWO

From approximately December 1990 through September 1993, as described below, you engaged in a pattern of inappropriate conduct in the workplace towards female court employees, in violation of the former Code of Judicial Conduct, canons 1, 2A and 3B(5).

In September 1991, in response to a request from former court manager Joan Huntsman for a meeting about court business, you sent Huntsman an interoffice memo in which you stated:

I have received your memo of September 4, 1991. I can’t imagine anything that would please me more than implementing new procedures with you. Naturally I would consider it a great personal honor to implement you, old or

new. However, as you point out, my schedule is tight and I would attempt to squeeze you in, but we can forget about Mondays. Mondays are my meetings with the Royal Pelican Society and, as everybody knows, Monday Night Football must take priority over everything else. Tuesdays and Thursdays aren't any good as anybody can tell you. That leaves us with Wednesdays and Fridays. Fridays would be good. Oh, I'm sorry, I forgot we were implementing new procedures. Fridays wouldn't be a good day for that. Maybe we could work something out on Wednesday. No, can't do Wednesday. That's lunch with Judge Ashworth and Hodge. It's important I attend these lunches with them for often they discuss all of the new procedures they have been implementing with Francine, due to their close contact with her. Oh, well.

In all seriousness, I would cancel all of the appointments to reverse my vasectomy to have a meeting with you to implement new procedures. Tell me when and where. Should you actually desire to eat lunch I will have solid sustenance as opposed to a mere coke.

Love and kisses,

Buggs

cc: Judge Anthony J. Piazza, Supervising Judge

In January 1992, you wrote an interoffice memo entitled, "Death of Joan Huntsman." The memo was distributed to Ruth Estes, a court employee who was Huntsman's subordinate. When Estes expressed concern to you about her name being in the memo, you responded by writing a note on the memo stating, "I deny all responsibility for this memo – it's all Ruth's fault."

In approximately May 1992, in your chambers in the presence of Huntsman and a friend of yours, you remarked about Huntsman, "isn't that the best pair of legs and ass you've ever seen."

On several occasions in 1991 and 1992, you made remarks to Huntsman about her clothing and body, such as, "I wonder what you have on underneath that dress," "that's beautiful material, I wish I could be that close to your skin," "you have a cute little ass," "your legs look beautiful," and "do we have a bra on, a camisole or just a slip."

In approximately early 1992, you made remarks to Huntsman about another female court employee's nipples showing through her sweater. You stated words to the effect that, it "excited you so much" to see that employee, because you were "sure that she had a 46 DD bra."

On several occasions in 1991 and 1992, you tugged on Huntsman's bra strap. On one occasion you said words to the effect of, "I'm an expert at undoing these."

On several occasions in 1991 and 1992, you stated to Huntsman in chambers as you were putting on your robe, "Say hello to Mr. Bobo," and wiggled your finger through your robe in the area of your groin.

In approximately November 1993, a probation officer came to your courtroom to announce that she was resigning. In the presence of others, you stated to the probation officer words to the effect of, "then I guess it doesn't matter if I do this," then put your hands on her face and kissed her on the lips.

YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

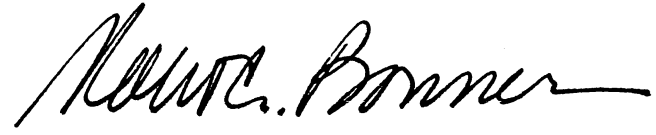
Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the

Commission on Judicial Performance, 101 Howard Street, Suite 300, San Francisco, California 94105. The answer shall be verified and shall conform in style to subdivision (c) of rule 15 of the Rules on Appeal. The notice of formal proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This notice of formal proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: November 25, 1998

A handwritten signature in black ink, appearing to read "Nanci Bonner", written over a horizontal line.

CHAIRPERSON

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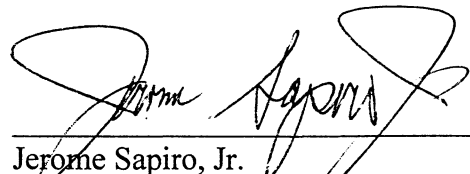
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JUDGE JOHN B. GIBSON,
NO. 152.

ACKNOWLEDGMENT OF SERVICE
OF THE NOTICE OF FORMAL
PROCEEDINGS

I, Jerome Sapiro, Jr., on behalf of my client, the Honorable John B. Gibson, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 152 and agree to accept service by mail. I acknowledge receipt of a copy of the Notice of Formal Proceedings by mail and, therefore, that Judge Gibson has been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: DECEMBER 9, 1998



Jerome Sapiro, Jr.
Attorney for Judge John B. Gibson,
Respondent